

Louisiana Revised Statutes Title 37

**CHAPTER 46. MIDWIFE**

**§3240. Short title**

This Chapter shall be known and may be cited as the Midwife Practitioners Act.

Acts 1984, No. 688, §1, eff. Jan. 1, 1985.

**§3241. Definitions**

As used in this Chapter, the following definitions apply unless the context clearly states otherwise:

(1) "Apprentice permit" means a permit issued by the Louisiana Department of Health to authorize a person desiring to become a licensed midwife to obtain clinical experience under supervision of a physician, certified nurse midwife, certified nurse practitioner specially qualified by the Louisiana State Board of Nursing, or licensed midwife.

(2) "Approved program" means a midwifery school or a midwifery training program which is approved by the board for the education of midwives.

(3) "Board" means the Louisiana State Board of Medical Examiners.

(4) "Certified nurse midwife" means a nurse authorized by the Louisiana State Board of Nursing to practice as a certified nurse midwife in the state.

(5) "Certified professional midwife" means a person certified by the North American Registry of Midwives.

(6) "Contact hour" means a unit of measurement to describe fifty to sixty minutes of an approved, organized learning experience or two hours of planned and supervised clinical practice which is designed to meet professional educational objectives.

(7) "Continuing education" means participation in an organized learning experience under responsible sponsorship, capable direction, and qualified instruction and approved by the board for the purpose of meeting requirements for renewal of registration under these regulations.

(8) "Department" means the Louisiana Department of Health.

(9) "Licensed midwife" means a person who has completed all requirements of R.S. 37:3247, 3253, and 3255, has successfully completed the examination process, and is certified as a midwife by the North American Registry of Midwives along with being in good standing on the registry of licensed midwives maintained by the board.

(10) "Licensed midwifery" means the provision of health services in pregnancy and childbirth by a person not a licensed physician or a certified nurse midwife.

(11) "Licensing period" means a two-year period running from April 1 of any year through March 31 of the second successive year; registration or permits may be issued at

any time but shall expire on March 31 of the second successive year.

(12) "Low risk patient" means an individual who is at low or normal risk of developing complications during pregnancy and childbirth as evidenced by the absence of any preexisting maternal disease or disease arising during pregnancy or such other conditions as the board may identify in rules.

(13) "Midwifery instructor" means a person who has a formal training and supervisory relationship with an apprentice midwife.

(14) "Physician" means a person who is currently practicing obstetrics and is licensed to practice medicine or osteopathy in Louisiana.

(15) "Senior apprentice permit" means a permit issued by the board to authorize a person desiring to be a licensed midwife to continue obtaining clinical experience under general direction rather than supervision.

(16) "Supervision" means the coordination, direction, and continued evaluation at first hand of the person in training and obtaining clinical experience as an apprentice midwife within the scope of these provisions.

Acts 1984, No. 688, §1, eff. Jan. 1, 1985; Acts 1988, No. 701, §2; Acts 2010, No. 743, §§10A, 10B, eff. July 1, 2010; Acts 2012, No. 772, §1; Acts 2018, No. 206, §3.

**§3242. Repealed by Acts 2010, No. 743, §10B, eff. July 1, 2010.**

**§3243. Powers and duties of the board**

The board shall:

(1) Establish and publish minimum curriculum and experience requirements for persons seeking licensure under the provisions of this Chapter.

(2) Establish and publish minimum standards of midwifery practice in accordance with those developed and accepted by the profession.

(3) Develop, publish, and make available to interested parties a bibliography and study guide for the examination.

(4) Examine for, approve, deny, revoke, suspend, and renew licensure of duly qualified applicants.

(5) Investigate consumer complaints or complaints from health care providers.

(6) Promulgate and publish rules and regulations for the purpose of administering the provisions of this Chapter.

(7) Conduct hearings on charges calling for revocation or suspension of licensure.

(8) Employ the necessary persons including an attorney to administer this Chapter and fix their compensation.

Acts 1984, No. 688, §1, eff. Jan. 1, 1985.

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**§3244. Scope of practice**

A. Licensed midwifery in Louisiana is limited in scope to practice and outlined in this Section.

B. The licensed midwife may provide care to low risk patients determined by physician evaluation and examination to be essentially normal for pregnancy and childbirth. Such care includes prenatal supervision and counseling; preparation for childbirth; and supervision and care during labor and delivery and care of the mother and the newborn in the immediate postpartum period if progress meets criteria generally accepted as normal as defined by the board.

C. A person may be issued a license as a licensed midwife, or permit as an apprentice midwife, or a senior apprentice midwife, such that:

(1) A licensed midwife may provide any care or services provided for in Subsection B of this Section.

(2) A senior apprentice midwife may provide care or services only under the supervision of a licensed physician, certified nurse midwife, or licensed midwife.

(3) An apprentice midwife may provide care or services only under the supervision of a licensed physician, certified nurse midwife, or licensed midwife.

D. Prior to providing any services, a licensed midwife shall obtain informed consent, in writing, of the patient in a manner and form prescribed by the board which shall include but not be limited to the following:

(1) The name and license number of the licensed midwife.

(2) The patient's name, address, telephone number, and the name of the patient's primary care provider if the patient has one.

(3) A statement that the licensed midwife is not an advanced practice registered nurse midwife or physician.

(4) A description of the education, training, continuing education, and experience of the licensed midwife.

(5) A description of the licensed midwife's philosophy of practice.

(6) A statement recognizing the obligation of the licensed midwife to provide the client, upon request, separate documents describing the law and regulations governing the practice of midwifery, including the requirement for an evaluation and examination by a physician, the protocol for transfer or mandatory transfer, and the licensed midwife's personal written practice guidelines.

(7) A description of the protocol for transfer to a hospital.

(8) A complete and accurate description of the services to be provided to the patient.

(9) Whether the licensed midwife maintains a professional liability policy and if insurance is maintained, a description of the liability conditions and limits of such insurance.

(10) Any additional information or requirement which the board deems necessary to protect the health, safety, or welfare of the patient.

Acts 1984, No. 688, §1, eff. Jan. 1, 1985; Acts 1988, No. 701, §2; Acts 2012, No. 772, §1.

**§3245. Permits and licenses**

A. Upon application, meeting the requirements and payment of fees, a person subject to the provisions of this Chapter may be issued an apprentice permit, a senior apprentice permit, or a midwifery license as applicable and in accordance with these regulations.

B. Upon application, an apprentice permit may be issued which authorizes the person to obtain the required clinical experience under the supervision of a licensed physician, certified nurse midwife, or licensed midwife. The applicant must provide verification of apprentice supervisor relationship from the person or persons supervising the applicant. The permit is valid only so long as the verified relationship(s) exist(s).

C. Upon application, a senior apprentice permit may be issued which authorizes the person to continue obtaining the required clinical experience under general direction rather than direct supervision.

(1) The applicant must provide a letter from his midwifery instructor verifying that while not prepared for independent practice, the applicant has obtained sufficient theory and supervised clinical experience under the midwifery instructor to warrant general direction rather than direct supervision and requesting approval of a senior apprentice permit on behalf of the applicant.

(2) The senior apprentice shall provide the board with evidence of completion of high school or its equivalent as approved by the board.

(3) The senior apprentice shall provide the board with evidence of satisfactory completion of areas of study and required clinical experiences as approved for such permits.

(4) The senior apprentice shall provide the board with evidence of current certification in cardiopulmonary resuscitation of the adult and newborn.

D. Upon meeting the educational and clinical experience requirements provided by the board, a person may apply for a midwifery license by submitting the following information:

(1) An application for the license and to take the next qualifying examination; provided, however, the board may issue a midwifery license to an applicant who holds current certification by the North American Registry of Midwives or such other certifying organization as the board may subsequently approve.

(2) Evidence of completion of all the educational and clinical requirements approved by the board.

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(3) Evidence of current certification in cardiopulmonary resuscitation of the adult and newborn.

(4) Four recommendations, one each from a physician or certified nurse midwife, licensed midwife, a consumer, and a member of the community.

Acts 1984, No. 688, §1, eff. Jan. 1, 1985; Acts 1988, No. 701, §2; Acts 2012, No. 772, §1.

#### **§3246. Reciprocity; limitations**

Applicants for licensing as a licensed midwife who lack the required clinical experience in Louisiana, but who have equivalent experience in another state, may apply for a midwifery license and to take the qualifying examination after submitting evidence of experience and all other requirements.

Acts 1984, No. 688, §1, eff. Jan. 1, 1985; Acts 1988, No. 701, §2.

#### **§3247. Examination required**

Midwifery licensure in Louisiana is by examination only. There is no reciprocity with other jurisdictions for purposes of the examination. Reciprocity may be applicable to clinical experience as provided in R.S. 37:3246.

Acts 1984, No. 688, §1, eff. Jan. 1, 1985; Acts 1988, No. 701, §2.

#### **§3248. Persons not affected**

A. Any person authorized by the Louisiana State Board of Nursing to practice as a certified nurse midwife in the state shall not be affected by the provisions of this Chapter.

B. Any student pursuing a course of study in an accredited midwifery education program that is approved by the board who provides midwifery services, provided that such services are an integral part of the student's course of study and are performed under the direct supervision of a physician, certified nurse midwife, or a licensed midwife, and the student is designated by a title which clearly indicates his status as a student or trainee, shall not be affected by the provisions of this Chapter.

Acts 1984, No. 688, §1, eff. Jan. 1, 1985; Acts 2012, No. 772, §1.

#### **§3249. Renewal of permits; licenses**

A. Every midwifery permit or license must be renewed every two years. An applicant for renewal shall submit to the board:

(1) A renewal application on the form prescribed by the board.

(2) Evidence of completion of thirty contact hours of continuing education as required by the regulations promulgated by the board.

(3) Evidence of current certification in cardiopulmonary resuscitation of the adult and newborn.

(4) Renewal fee as prescribed by the board.

B. Delinquency in renewal of permits or licenses of thirty days or greater shall result in termination of permits or licenses.

C. Any licensed midwife registered in Louisiana who is not practicing licensed midwifery in this state may be placed on inactive status by requesting such status in writing and filing annual reports. Licensed midwives on inactive status will be maintained on the registry and receive mailings. Any licensed midwife who does not seek inactive status and allows her permit to expire may apply for a midwifery license as prescribed in R.S. 37:3245 and must pay the initial registration fee. Inactive status may be maintained for a maximum of two renewals.

Acts 1988, No. 701, §2.

#### **§3250. Fees**

A. All initial applications must be accompanied by a fee of one hundred dollars. Such fee provides for permits or licenses for the licensing period or part thereof remaining. All fees are nonrefundable.

B. The fee for change of licensing status or renewal of permits or licenses shall be fifty dollars.

C. The fee for examination shall be fifty dollars and is not included in change of status or licensing fee.

Acts 1988, No. 701, §2.

#### **§3251. Permits/licenses; refusal to issue; suspension; revocation**

The board may refuse to issue, suspend for a definite period, or revoke a permit or license for any of the following causes:

(1) Being derelict in any duty imposed by law.

(2) Exhibiting incompetence as determined by local midwifery standards.

(3) Being convicted of a felony.

(4) Practicing while suffering from a contagious or infectious disease of public health importance.

(5) Practicing under a false name or alias.

(6) Violating any of the standards of practice set forth in R.S. 37:3244.

(7) Obtaining any fee by fraud or misrepresentation.

(8) Knowingly employing, supervising, or permitting directly or indirectly or permitting any person or persons not an apprentice or licensed midwife to perform any work covered by these regulations.

(9) Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, or any other representation however disseminated or published, which is misleading or untruthful.

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(10) Representing that the service or advice of a person licensed to practice medicine will be used or made available when that is not true, or using the word "doctor", or similar words, abbreviations, or symbols so as to connote the medical profession when such is not the case.

(11) Permitting another to use his permit or license.

Acts 1988, No. 701, §2.

**§3252. Appeal of board's decision**

The board shall promulgate regulations in accordance with the Administrative Procedure Act to provide notice and opportunity for hearing an appeal of any decision made pursuant to R.S. 37:3251.

Acts 1988, No. 701, §2.

**§3253. Requirements for license or permit; educational; clinical**

A. The board shall maintain and revise a list of approved courses, texts, and trainers for licensure under this Chapter. The board may use the list as a guideline in determining the acceptability of a nonlisted educational source which an applicant submits as complying with any educational experience requirement provided for in the board's regulations.

B. Clinical experience in licensed midwifery may be obtained in any setting - office, clinic, hospital, maternity center, or home. The board shall provide by regulation for the required types and numbers of experiences. Apprentice midwives must obtain their clinical experience under the supervision of a physician, certified nurse midwife, or licensed midwife. This must be direct, present in the same room supervision.

Acts 1988, No. 701, §2.

**§3254. Continuing education**

A. Continuing education is required for renewal of license or permit under this Chapter.

B. In each two-year licensing period, thirty contact hours of continuing education must be obtained.

C. Continuing education may be obtained through organized courses, conferences, area midwives meetings, or other mechanism as approved by the board.

D. In any calendar year, the board may require specific topics for continuing education based upon any problem areas identified by the board.

Acts 1988, No. 701, §2.

**§3255. Examination**

A. Any person applying for a midwifery license must pass a qualifying examination administered under the auspices of the board. The board shall offer the examination at least twice a year.

B. The examination shall consist of two parts:

(1) A written examination designed to test knowledge of theory regarding pregnancy and childbirth and to test clinical judgment in licensed midwifery management.

(2) A practical examination designed to demonstrate the mastery of skills necessary for the practice of licensed midwifery.

C. A candidate for examination, who fails to pass the examination within two examination periods, shall have that\* permit terminated. The candidate may apply to take the examination after a period of additional study and clinical experience as prescribed by the board.

D. The examination administered by the North American Registry of Midwives, or such other certifying examination as the board may subsequently approve, shall be accepted by the board as a qualifying examination for purposes of midwifery licensure.

Acts 1988, No. 701, §2; Acts 2012, No. 772, §1.

\*As appears in enrolled bill.

**§3256. Penalties**

Any person who violates the provisions of this Chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both. For each subsequent offense, the violator shall be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Acts 1988, No. 701, §2.

**§3257. Injunction**

A. In addition to the actions and penalties otherwise provided for by this Chapter, the board may cause to issue in any court of competent jurisdiction an injunction without bond enjoining any person from violation or continuing to violate the provision of this Chapter.

B. In the suit for an injunction, the board may demand of the defendant a penalty of fifty dollars per day for each violation, reasonable attorney's fees, and the costs of court.

C. This judgment for penalty, attorney's fees, and court costs may be rendered in the same judgment in which the injunction is made absolute.

Acts 1988, No. 701, §2.

**§3258. Professional liability**

A. Physician evaluation and examination as provided in R.S. 37:3244 shall be deemed to constitute a risk assessment. A physician performing a risk assessment is responsible only for determining that at the time of the risk assessment the individual is at low or normal risk of developing complications during pregnancy and childbirth.

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For any physician performing a physician risk assessment, the physician-patient relationship shall only exist for the purposes of the risk assessment and shall not continue after the conclusion of the physician risk assessment.

B. Physician risk assessment as defined in this Section shall not create either of the following:

(1) Any legal duty, responsibility, or obligation by the physician to provide continuing care after the conclusion of the physician risk assessment.

(2) A legal relationship between the physician and the licensed midwife or any duty, responsibility, or obligation by the physician to supervise, collaborate, back-up, or oversee the licensed midwife's care of the patient.

C. No physician or other health care provider as defined in R.S. 40:1231.1, no hospital as defined in R.S. 40:2102, and no institution, facility, or clinic licensed by the department shall be:

(1) Deemed to have established a legal relationship with a licensed midwife solely by providing a risk assessment as defined in this Section or accepting a transfer of a patient from a licensed midwife.

(2) Liable for civil damages arising out of the negligent, grossly negligent, or wanton or willful acts or omissions of the licensed midwife solely for providing a risk assessment as defined in this Section or accepting a transfer of a patient from a licensed midwife.

Acts 2012, No. 772, §1; Acts 2018, No. 206, §3.

**§3259. Reporting**

A. Every licensed midwife shall report to the board annually in a manner and form prescribed by the board. The report shall be submitted by January thirty-first of each year and shall include all of the following:

(1) The licensed midwife's name and license number.

(2) The calendar year being reported.

(3) The total number of clients served.

(4) The total number and parish of live births attended as a primary caregiver.

(5) The total number and parish of stillbirths attended as a primary caregiver.

(6) The number of patients whose primary care was transferred to another health care provider during the antepartum period and the reason for each transfer.

(7) The number, reason, and outcome for each elective hospital transfer.

(8) The number, reason, and outcome for each emergency transport of an expectant mother prior to labor.

(9) A brief description of any complications resulting in the death of a mother or an infant.

(10) Any other information prescribed by the board through rule or regulation.

B. A licensed midwife shall report within forty-eight hours to the board any maternal, fetal, or neonatal mortality or morbidity in patients for whom care has been given. The report shall include the sex, weight, date and place of delivery, method of delivery, congenital anomalies of the fetus, and if maternal, fetal, or neonatal death occurred, cause of death.

C. In addition to the penalties set forth in R.S. 37:3256, any licensed midwife failing to satisfy the provisions of this Section shall be subject to a civil fine not to exceed one hundred dollars each day the report is filed late. In no case shall the fine exceed five hundred dollars.

Acts 2012, No. 772, §1; Acts 2013, No. 220, §15, eff. June 11, 2013.